

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6119 of 1986

Date of decision: 16-2-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHIKHUGIRI VITHALGIRI GOSWAMI

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioners

None present for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/02/98

ORAL JUDGEMENT

The matter was called out for hearing in the first round, second round and lastly in the third round. None put appearance on behalf of the parties. Perused the special civil application.

The petitioners, employees of the Police Department of the Government of Gujarat, have filed this special civil application and prayer has been made for quashing and setting aside the order annexure-A dated 18th August, 1986. Further prayer has been made for direction to respondent No.2 to reinstate the petitioners on the post of driver- police constable, and to pay salary to the petitioners of the said post as if the petitioner had worked on the said post without any break. The petitioners contended that under the said order they have been demoted from the post of Driver Police Constables (Motor Transport) to the post of Police Constables (Police Force), which has resulted in monetary loss to them.

2. This court had admitted this petition on 21st November, 1986 and interim relief in terms of para 10(B) was granted. So the petitioners are, for all the time, allowed to perform duties of Driver Police Constable (Motor Transport), and the petitioners may be continuing on the said post. One of the grievances made by the petitioners in the special civil application is that the impugned order has been passed without any notice or affording any opportunity of hearing to them. The facts stated by the petitioners in the special civil application have not been controverted by the respondents and as such the same stand uncontroverted. So indisputably the order impugned in this special civil application has been passed by the respondents without notice and without affording an opportunity of hearing to the petitioners. The said order results in civil consequences and, therefore, before passing the same the petitioners were required to be given notice and opportunity of hearing, which has not been done in the present case. Only on this ground the petition deserves to be allowed.

3. In the result the petition is allowed. The orders at annexure-A dated 18th August, 1986 are quashed and set aside. Rule made absolute accordingly. No order as to costs. This order will not come in the way of the respondents to pass fresh order, if required, in accordance with law, and after following the principles

of natural justice.

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